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Supreme Court, U.S.
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No.

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1997

PEGGY SUSAN O'STEEN,

Petitioner,

vs.

CSX TRANSPORTATION, INC.,

Respondent.

Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

PEGGY SUSAN O'STEEN
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25 pp

QUESTIONS PRESENTED

I. Does a Pro Se Litigant have equal protection under the law?

II. Must a Judge base their decision only on facts?

III. Is it lawful for a Judge to base his/her decision partially on allegations?

IV. Is it lawful for a Judge to agree with the Defendant in what was done - even though it was in direct violation of the law?

LIST OF PARTIES

Pursuant to Rules of the Supreme Court of the United States, Rule 29.6, this list has been included in the Answer Brief of Defendant: Case No: 97-2159, pages C-1 through C-17, inclusive. The Petitioner - PEGGY SUSAN O'STEEN - is the only interested party in this lawsuit on her behalf.

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None

Statutes Cited:

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42 U.S.C. § 2000e-2.(a)(1) 10

42 U.S.C. § 2000e-2.(a)(2) 10

42 U.S.C. § 2000e-2.(d) 11

Rule Cited:

None

Other Authorities Cited:

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Petitioner, PEGGY SUSAN O'STEEN, Pro Se Litigant, respectfully petitions for a writ of certorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit. This is for the October Term, 1997, in The Supreme Court of the United States.

OPINIONS BELOW

The opinion of the United States Court of Appeals appears at Appendix A to the petition and is unpublished. The opinion of the United States District Court appears at Appendix B to the petition and is unpublished.

STATEMENT OF JURISDICTION

The Court of Appeals entered its judgment on September 15, 1997 AFFIRMING the District Court's decision. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATUTES INVOLVED

The pertinent provision of the statutes involved are set forth below:

> United States Code Annotated
> Title 29. § 623.(a)(1)(2)
> Prohibition of Age Discrimination
>
> It shall be unlawful for an employer -
>
> (1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;
>
> (2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age;

United States Code Annotated
Title 42. § 2000e-2.(a)(1)(2) and (d)

U.S.C. § 2000e-2. Unlawful Employment Practices

(a) Employer practices

It shall be an unlawful employment practice for an employer -

(1) to fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

United States Code Annotated
Title 42. § 2000e-2.(d)
Training Programs

(d) Training Programs

It shall be an unlawful employment practice for any employer - labor organization, or joint labor - management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against any individual because of his race, color, religion, sex, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

The Constitution of the
United States
AMENDMENT VII.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

The Constitution of the
United States
AMENDMENT XIV
Section 1

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

The alleged discrimination occurred on June 21, 1994. Petitioner filed a Charge of Discrimination on December 20, 1994; with the Jacksonville Equal Opportunity Commission. The cause of discrimination was based on Retaliation. Petitioner requested Right to Sue Letter and received same from the EEOC - which was mailed on September 14, 1995. The EEOC also checked the box whereby Petitioner could sue under the Age Discrimination in Employment Act (ADEA).

Petitioner could not find an Attorney to represent her. Consequently, Petitioner had no other option than to represent herself. Petitioner filed suit against the Respondent on December 6, 1995. The Respondent filed a MOTION FOR SUMMARY JUDGMENT and was awarded same on January 24, 1997. Petitioner filed a NOTICE OF APPEAL on February 7, 1997 to The United States Court of Appeals for the Eleventh Circuit. The Appeals Court AFFIRMED The United States District Court's decision on September 15, 1997. Petitioner filed a Petition for a Writ of Certorari postmarked on December 12, 1997; to The Supreme Court of the United States. Letter was received from Ms. Ruth Jones dated December 17, 1997; giving Petitioner an additional sixty (60) days from date of her letter to return Petition in corrected form.

REASONS FOR GRANTING THE WRIT

The Court should grant the writ in order to preserve the Petitioner's rights under the Seventh Amendment to the Federal Constitution which provides that:

> "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved....."

The Petitioner has the right under the Seventh Amendment to have a trial by jury because the value in controversy exceeds twenty dollars.

I.

DOES A PRO SE LITIGANT HAVE EQUAL PROTECTION UNDER THE LAW?

The Petitioner is protected by the "Equal protection clause" - which is that provision in the 14th Amendment to the United States Consitution that prohibits a State from denying to any person within its jurisdiction the equal protection of the laws. This clause requires that persons under like circumstances be given equal protection in the enjoyment of personal rights and the prevention and redress of wrongs.

II.

MUST A JUDGE BASE THEIR DECISION ONLY ON FACTS?

A fact is an actual event that happened. An allegation is merely an assertion, claim, declaration, or statement of an event. An allegation is only an allegation until it is proven to be a fact. Judges should base their decisions on facts - and not on allegations.

III.

IS IT LAWFUL FOR A JUDGE TO BASE HIS/HER DECISION PARTIALLY ON ALLEGATIONS?

According to the DELUXE BLACK'S LAW DICTIONARY: a fact is the quality of being actual. The Courtroom is where the "truth" is sought. According to the same BLACK'S LAW DICTIONARY: truth is an eventual verification. Judges should base their decisions only on facts - and not partially on any type of allegations on the part of the Respondent.

IV.

IS IT LAWFUL FOR A JUDGE TO AGREE WITH THE DEFENDANT IN WHAT WAS DONE - EVEN THOUGH IT WAS IN DIRECT VIOLATION OF THE LAW?

Referring to ORDER granting Summary Judgment to the Respondent: listed under "Background Facts":

> "On June 10, 1994, the day Plaintiff returned to the program, a test was scheduled on a subject entitled 'Operating Rules'. Instead of requiring Plaintiff to take the test along with the other trainees, Defendant gave Plaintiff time to prepare, allowing her to take the test approximately a week later."

Referring specifically to the last sentence in the above-mentioned quote:

> "INSTEAD OF REQUIRING PLAINTIFF TO TAKE THE TEST ALONG WITH THE OTHER TRAINEES, DEFENDANT GAVE PLAINTIFF TIME TO PREPARE, ALLOWING HER TO TAKE THE TEST APPROXIMATELY A WEEK LATER."

The Petitioner was deliberately "segregated" from the other trainees. United States District Court Judge John H. Moore II agreed with the Respondent in what they had done. The Respondent segregated the Petitioner which deprived same of employment opportunities and adversely affected Petitioner's status as an employee because of Petitioner's age - which is in direct violation of 29 U.S.C. § 623.(a)(2) - specifically under: PROHIBITION OF AGE DISCRIMINATION.

The Petitioner was deliberately "segregated" from the other trainees. United States District Court Judge John H. Moore II agreed with the Respondent in what they had done. The Respondent segregated the Petitioner which discriminated against the Petitioner with respect to Petitioner's compensation because of Petitioner's age - which is in direct violation of 29 U.S.C. § 623.(a)(1) - specifically under: PROHIBITION OF AGE DISCRIMINATION.

The Respondent segregated the Petitioner which discriminated against the Petitioner with respect to Petitioner's compensation which is in direct violation of 42 U.S.C. § 2000e(a)(1) - specifically under: UNLAWFUL EMPLOYMENT PRACTICES.

The Respondent segregated the Petitioner which deprived same of employment opportunities and adversely affected Petitioner's status as an employee - which is in direct violation of 42 U.S.C. § 2000e-2.(a)(2).

The Respondent segregated the Petitioner which discriminated against the Petitioner who was in an on-the-job training program. This was in direct violation of 42 U.S.C. § 2000e-2.(d) - specifically under: TRAINING PROGRAMS.

The Respondent violated 29 U.S.C § 623.(a)(1)(2) and 42 U.S.C. § 20003-2.(a)(1)(2) and (d) - and United States District Court Judge John H. Moore II agreed with the Respondent in violating the above-mentioned statutes when he agreed with what the Respondent had done.

The Petitioner's rights were violated when Judge Moore II did this. The Petitioner has equal protection of the laws and Judge Moore II failed to protect the Petitioner's rights for equal protection of these laws.

Laws are made to protect employees. I am an employee and the laws are made to protect me. This is a very unique case - the Petitioner is a Pro Se Litigant. This lawsuit affects every working employee in the United States. The importance of this case will touch others similarly situated working in different corporations as well as small companies.

The Respondent has been under the media and public eye relative to safety. The Train Dispatching Center in Jacksonville, Florida is the heartbeat of where trains are controlled all over the Respondent's trains, Amtrak and Commuter Trains - on the Respondent's respective railroad lines.

The public has a right to know about this particular lawsuit because it involves safety issues. Train Dispatchers deal with people's lives every day - not only their own train crews - but the lives of Amtrak passengers and Commuter train passengers. The public has a right to make up their own mind whether or not they think personally that it is safe for them to ride Amtrak or a Commuter train on the Repondent's railroad tracks.

The surviving family members of people who have been killed in Amtrak wrecks, Commuter wrecks and their regular train crew wrecks on the Respondent's railroad tracks have a right to know about this lawsuit.

Violence in the workplace is increasing. And with this increasing magnitude of violence in the workplace - this case would show employees that have been handled improperly - that even if they can't find a lawyer to represent them - they can represent themselves instead of taking the law into their own hands.

This lawsuit is unique in its own right. The Petitioner has gone through the specific procedures that one has to go through. This lawsuit affects public transportation. The public has a right to know about this lawsuit. The public has a right to see exactly what happened and to choose for themselves.

The Petitioner is not a habitual litigator. This is the first and only lawsuit filed against anyone - other than divorce court.

CONCLUSION

For the reasons stated, the petition for a writ of certiorari should be granted.

Respectfully submitted,

PEGGY SUSAN O'STEEN
Pro Se Litigant
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(904) 845-7755

APPENDIX A - JUDGMENT OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT FILED SEPTEMBER 15, 1997

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 97-2159

PEGGY SUSAN O'STEEN,

Plaintiff-Appellant,

v.

CSX TRANSPORTATION, INC.,

Defendant-Appellee.

Before: HATCHETT, Chief Judge, EDMONDSON and CARNES, Circuit Judges.

JUDGMENT

ON APPEAL from the United States District Court for the Middle District of Florida at Jacksonville.

Peggy Susan O'Steen appeals a grant of summary judgment against her claim of age discrimination and retaliation in violation of Title VII, 42 U.S.C. § 2000e-2, and the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621-634. We affirm for the reasons stated in the district court's January 24, 1997 order.

AFFIRMED.

Appendix A

ENTERED BY ORDER THE COURT

s/ Miguel J. Cortez
MIGUEL J. CORTEZ, Clerk

A True Copy.

Attest:

Deputy Clerk

APPENDIX B - JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION DATED JANUARY 24, 1997

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

Civil Action
No. 95-1194-Civ-J-99B(H)

HON. JOHN H. MOORE II

PEGGY SUSAN O'STEEN,

Plaintiff,

v.

CSX TRANSPORTATION, INC.,

Defendant.

JUDGMENT

IT IS ORDERED AND ADJUDGED:

1. That Defendant's Motion for Summary Judgment, filed November 22, 1996 (Doc. #13), is hereby GRANTED and the Clerk is hereby directed to enter Final Judgment in favor or Defendant CSX Transportation, Inc.;

2. That Plaintiff's Motion for Permission for Seating at Counsel Table, filed January 21, 1997 (Doc. #22), is hereby DENIED AS MOOT.

DONE AND ORDERED in Chambers in Jacksonville, Florida, this 24 day of JAN , 1997.

Dated at Jacksonville, Florida, JAN 24, 1997.

Appendix B

IT IS ORDERED AND ADJUDGED

that pursuant to the Court's Order, filed January 27, 1997, final judgment is entered in favor of Defendant and against the Plaintiff.

RICHARD D. SLETTEN
CLERK OF THE COURT

By s/ Sandra Carnes
Deputy Clerk

Approved:

s/ John H. Moore II
JOHN H. MOORE II
UNITED STATES DISTRICT JUDGE